

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
V.) No. 89-CR-83-E ✓
)
MICHAEL STEVEN HALL,)
)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
HAD ON SEPTEMBER 11, 1989
PLEA OF GUILTY

BEFORE THE HONORABLE JAMES O. ELLISON, Judge.

FILED
DEC 22 1989
JACK C. SILVER, CLERK
U.S. DISTRICT COURT
ct

APPEARANCES:

For the Plaintiff: Jack Morgan
Assistant United States Attorney
3600 United States Courthouse
Tulsa, Oklahoma 74103

For the Defendant: David Booth
Federal Public Defender
222 South Houston, Suite C
Tulsa, Oklahoma 74127

Glen R. Dorrough
UNITED STATES COURT REPORTER

PROCEEDINGS

September 11, 1989

THE COURT: We will now address Michael Steven Hall.

The record will reflect that Michael Steven Hall appears before the Court in person and through his counsel, David Booth. I would request that the clerk place Mr. Hall under oath.

THE CLERK: Do you solemnly swear your testimony in this hearing will be the truth, the whole truth and nothing but the truth so help you God?

THE DEFENDANT: I do.

THE COURT: Mr. Hall, you have been present in the courtroom while Loren Eugene Hall, Jr. entered a change of his plea.

THE DEFENDANT: Yes, sir.

THE COURT: So that you understand the process. I would ask Mr. Booth, is there any statement that you would care to make on behalf of Mr. Hall at this time?

MR. BOOTH: Just briefly, Your Honor. Mr. Hall stands in front of you charged in a one count indictment alleging that he was a party to a conspiracy to manufacture, to possess with intent to distribute and to distribute methamphetamine. With the Court's permission he would tender a plea of guilty today.

He has in front of him a copy of the indictment, an original and one copy of the plea petition. Attached to the

1 plea petition is a document that we refer to as a plea letter
2 signed by counsel for the government and Mr. Hall. It contains
3 the plea agreement set out in full, although the petition
4 summarizes it.

5 THE COURT: Thank you very much, Mr. Booth.

6 Mr. Hall, do you understand that Mr. Booth cannot
7 enter a change of plea for you?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: This is something you have to do on your
10 own. First of all, do you understand that if you are tried by
11 a jury you have the right to confront and to cross-examine any
12 witness against you, do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You have the right to the assistance of
15 your lawyer, Mr. Booth, throughout the entire proceedings, do
16 you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand further that no one can
19 compel you to take the witness and stand and give evidence
20 against yourself, do you understand that?

21 THE DEFENDANT: Uh-huh.

22 THE COURT: In order to convict you all 12 members of
23 the jury would have to unanimously agree as to your guilt, do
24 you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you further understand that if you
2 waive jury trial the Court alone will determine the fact of
3 guilt or innocence, do you understand?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And if you plead guilty and that plea is
6 accepted, in effect there's no further trial of any kind except
7 the issue of sentencing, do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Understanding these things that we've
10 talked about, do you still wish to waive or give up your right
11 to jury trial?

12 THE DEFENDANT: Yes.

13 THE COURT: You may sign the waiver of jury.

14 The Court is approving Mr. Hall's waiver of jury.

15 Now, Mr. Hall, you heard the Court read in its
16 entirety the indictment against you and I read the specific
17 overt acts charged against you as well as Loren Eugene Hall,
18 Jr., is that a fair statement?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You have no question about what you are
21 charged with?

22 THE DEFENDANT: No, sir.

23 THE COURT: You fully understand what you are charged
24 with?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Now, do you understand further that if you
2 enter a plea of guilty that the Court may sentence you to a
3 term of imprisonment or a monetary fine or both?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand that the maximum
6 sentence which could be imposed by the Court would be a
7 sentence not to exceed 20 years imprisonment?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you further understand that the Court
10 could sentence you to a fine of up to one million dollars or
11 both such term of imprisonment and fine?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you understand the Court would have to
14 assess a special assessment of \$50 to the Crime Victims fund of
15 the U.S. Treasury.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I understand that after stating that the
18 Court could impose a fine of one million dollars to mention the
19 \$50 is minimal, but I have to state to you everything that
20 could happen, do you understand the reason for that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand that the Court, pursuant
23 to the sentencing guidelines, must impose a term of supervised
24 release in addition to any incarceration?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Further do you understand that the Court
2 is required to consider the applicable sentencing guidelines in
3 arriving at your sentence. The Court under certain
4 circumstances may depart from those guidelines, do you
5 understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And how old are you, Mr. Hall?

8 THE DEFENDANT: 37.

9 THE COURT: 37. Do you make inth plea of guilty of
10 your own free choice?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Is this change of plea or plea of guilty
13 totally voluntary on your part?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Has anybody forced you or threatened you
16 in any way to make that plea?

17 THE DEFENDANT: No, sir.

18 THE COURT: Has anybody promised you anything to plead
19 guilty?

20 THE DEFENDANT: No, sir.

21 THE COURT: Presently in this courtroom as you stand
22 there are you under the influence of any drugs, alcohol or
23 medication?

24 THE DEFENDANT: No, sir.

25 THE COURT: How far were you able to go to school?

1 THE DEFENDANT: 11th grade.

2 THE COURT: Do you understand you have a right to
3 plead not guilty and put the burden on the United States to
4 establish guilt beyond a reasonable doubt --

5 THE DEFENDANT: Yes, sir.

6 THE COURT: -- and maintain that position throughout,
7 do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Are you satisfied with the services of
10 your attorney, Mr. Booth?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Mr. Booth has told the Court that there is
13 a plea agreement and if the clerk would hand it up I would
14 review it at this time.

15 Mr. Morgan, is this the agreement that has been
16 entered into between the United States and the defendant?

17 MR. MORGAN: Yes, sir, it is very similar to the same
18 plea agreement that Loren Eugene Hall, Jr. signed, Your Honor.
19 There is no agreement as to an amount of time and that's left
20 entirely to the discretion of the Court.

21 THE COURT: So sentencing would be left entirely to
22 the discretion of the Court and there's no agreement as to
23 amount of time. Do you agree with that, Mr. Booth?

24 MR. BOOTH: That's a correct statement.

25 THE COURT: And is that your understanding, Mr. Hall?

1 THE WITNESS: Yes, sir.

2 THE COURT: I'm going to take a moment to review.

3 The Court has reviewed the plea agreement between the
4 United States and Mr. Hall and approves it and orders that it
5 be made a part of the record in this case and also orders that
6 it be placed under the seal of the Court and not to be released
7 except upon appropriate application and order of the Court.

8 I'm going to ask you, as I did the other defendant,
9 questions about the offense itself, the commission of the
10 offense and you must answer those with total honesty, as I know
11 you will, so that you don't expose yourself to any possible
12 charge of perjury or false statement, do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Hall, understanding the nature of the
15 charges against you, your right to jury trial and the effect
16 and consequence of your plea, how do you plead to the
17 indictment?

18 THE WITNESS: Guilty.

19 THE COURT: You may sign the petition to plead
20 guilty. Tell me what you did.

21 THE DEFENDANT: Well, I just moved from New Jersey to
22 be with my family and I kind of walked into the tail end of all
23 of this.

24 THE COURT: When was this about that you came out here
25 from New Jersey?

1 THE DEFENDANT: Latter part of '88. And I wanted to
2 be with my father again and the the rest of my family. I kind
3 of walked --

4 THE COURT: Came into the situation.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Was it going on at the time -- was the
7 manufacture of methamphetamine going on at the time you came
8 back here from New Jersey?

9 THE DEFENDANT: Yeah.

10 THE COURT: And did you then become part of the plan
11 to manufacture and produce and distribute methamphetamine?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are the individuals named in the
14 indictment -- is that a pretty accurate list of people, both
15 named and those that are not named, who joined together for
16 this purpose?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And is the time frame from September of
19 '87 through September 16 of '89, is that a fair statement of
20 the time within which these activities were conducted.

21 THE DEFENDANT: That I'm not sure of, but pretty close
22 to it, yeah, because I was not involved in '87.

23 THE COURT: For what period of time were you
24 involved?

25 THE DEFENDANT: About from the last part of '88 until

1 somewhere around in '89.

2 THE COURT: And your activities and the activity of
3 the others that you worked with and agreed with was to produce
4 and distribute methamphetamine?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. I'm going to address some of
7 the overt acts in which you are named.

8 Number five. There at Mesquite, Texas in October or
9 November of 1988, did you spill some meth oil on the floor of a
10 shed?

11 THE DEFENDANT: No, sir, that was an explosion.

12 THE COURT: An explosion?

13 THE WITNESS: Yes, sir.

14 THE COURT: Do you want to describe how that
15 happened?

16 THE DEFENDANT: My dad put too much chemical in the
17 oil and it blew up.

18 THE COURT: So you were not involved in that
19 activity. At any time did you spill meth oil?

20 THE DEFENDANT: No, it was just from the explosion.

21 THE COURT: Along about October, November of '88 did
22 you, with your dad, leave Mesquite, Texas to manufacture
23 methamphetamine?

24 THE DEFENDANT: Not to manufacturer, he took me back
25 to Newton, Kansas to live with my grandfather.

1 THE COURT: But was there -- there was a plan?

2 THE DEFENDANT: Yes, there was lab equipment in the
3 back.

4 THE COURT: That's right. So it was part of the plan
5 to manufacture methamphetamine.

6 THE DEFENDANT: Yeah.

7 THE COURT: In January of 1989 did you transport
8 laboratory glassware from or near Mesquite, Texas to Burns,
9 Kansas or close to Burns, Kansas?

10 THE DEFENDANT: No, sir, I was living in Burns, Kansas
11 at the time and I never went back to Texas once I left Texas.

12 THE COURT: At any point in the time that the
13 conspiracy was in operation did you assist in the
14 transportation of laboratory glassware?

15 THE DEFENDANT: Just back then.

16 THE COURT: Pardon me?

17 THE DEFENDANT: Just on number six.

18 THE COURT: All right. When you left Mesquite, Texas
19 you helped transport glassware at that time back in October or
20 November of '88?

21 THE DEFENDANT: Uh-huh.

22 THE COURT: You were assisting in the manufacture of
23 methamphetamine, were you not --

24 THE DEFENDANT: Yes, sir.

25 THE COURT: -- one way or another during this time

1 frame? And that was for the purpose of distribution, you knew
2 why it was being produced?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Did you assist otherwise in this
5 activity? Tell me generally what your function was and what
6 you did?

7 THE DEFENDANT: Mostly just clean up.

8 THE COURT: Mostly clean up of the --

9 THE DEFENDANT: Clean-up operation.

10 THE COURT: -- of the cooking area?

11 THE DEFENDANT: Uh-huh.

12 THE COURT: And did you ever bring chemicals on site,
13 did you ever transport chemicals in any way?

14 THE DEFENDANT: Yes.

15 THE COURT: Anything further in regard to elements of
16 the offense, Mr. Morgan?

17 MR. MORGAN: Well, I think we've pretty well covered
18 it. There's a few areas that have developed since the
19 indictment was prepared of course and I think Mike has advised
20 us that on one occasion he was left by his father to watch a
21 cook that was already going on and in process.

22 THE DEFENDANT: That was the one, yeah, that exploded.

23 MR. MORGAN: And that thereafter there were some lye
24 added to some water which caused an explosion at the lab site
25 and that is what he was referring to awhile ago.

1 That on other occasions that he participated in seeing
2 chemicals, the glassware, knowing what they were going to be
3 used for and would clean up the lab site and do those type of
4 jobs for his father. In fact, I think he was even promised a
5 great sum of money one time for his work. I don't think he
6 ever got paid for it.

7 THE DEFENDANT: No.

8 THE COURT: Isn't that right?

9 THE DEFENDANT: Yes, sir.

10 MR. MORGAN: And I think basically Your Honor has
11 pretty well touched on the elements of the offense.

12 THE COURT: The purpose, Mr. Hall, at the time of
13 change of plea is for the Court to be able to determine whether
14 or not the elements of the crime that you are charged with have
15 been committed. In other words, I have to be convinced that
16 you really did commit the crime you're charged with before I
17 can accept your plea and that's the reason for these
18 questions. But there is no doubt in your mind about what
19 activities were going on or your participation in the
20 activities as charged in the indictment is there really?

21 THE DEFENDANT: I knew what was going on, yes, sir.

22 THE COURT: And you participated with the others?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Based upon these responses to the Court's
25 questions, the Court finds that the plea of guilty made by the

1 defendant is made freely, voluntarily and because he is guilty
2 as charged, that he doesn't make this plea out of any ignorance
3 or fear or inadvertence or coercion, and that he fully
4 understands its consequences. I further find that he has
5 admitted the essential elements of the crime charged and that
6 there is a factual basis for the plea of guilty.

7 And, Mr. Hall, I did not ask this question, I did it
8 of the previous defendant. Do you consider yourself to be a
9 mentally competent man?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Have you ever been treated for mental
12 illness of any kind?

13 THE DEFENDANT: No, sir.

14 THE COURT: The Court will find that the defendant is
15 mentally competent to enter this plea. It is therefore ordered
16 that the defendant's plea of guilty be accepted and entered as
17 prayed for in his petition and as recommended in the
18 certificate of his lawyer, David Booth. The Court is signing a
19 formal order to that effect at this time.

20 Sentencing in this case is set for November the 21st,
21 1989, in this courtroom at nine o'clock a.m.

22 And I would further ask Mr. Morgan, do you agree that
23 Mr. Booth could present evidence to this Court that this
24 defendant is neither a flight risk nor a danger to the
25 community?

1 MR. MORGAN: Yes, sir.

2 THE COURT: Based upon that agreement the existing
3 bond will stay in full force and effect until the time of
4 sentencing. Anything further?

5 MR. MORGAN: No, sir. Thank you very much.

6 MR. BOOTH: Thank you.

7 THE COURT: Thank you. We'll be in recess.

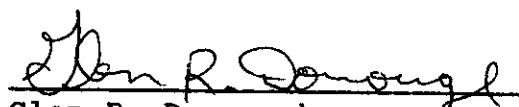
8 (Recess).

9 A TRUE AND CORRECT TRANSCRIPT.

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CERTIFIED:



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Glen R. Dorrough
United States Court Reporter

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